

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

**Release Number: 201217027
Release Date: 4/27/2012
Date: February 1, 2012**

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND

UIL 4945.04-04

V = Performance organization
W = Theme of work project
Y = Name of grants
Z = Name of company distributing grants
b = First amount paid out
c = Additional amount paid out
d = Final amount paid out
p = Number of grants
x = Amount of grant

Dear

We have considered your request for advance approval of your grant-making program under section 4945(g)(3) of the Internal Revenue Code, dated August 19, 2011.

Our records indicate that you were recognized as exempt from federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that you will operate a grant-making program called Y.

Y was established to provide funds to composers for the creation of and performance of new musical works. Y will be awarded to musicians with post-graduate degrees in the field of composition or other fields relating to music performance and who have some experience with creating compositions for public performance.

You will award up to p grants and that the budget for each grant will be approximately x dollars. The grants will be used for the composer's general living expenses and for any expenses related to the compositions. All of the grants will be part of a single work that will last from three to four years.

The overall goal of Y will be to have V present the premiere performance of each of the compositions commissioned by the grants. It is anticipated the premiers of the compositions will be presented over the course of several months in a single locale. The prospective candidates for the grants may come from any geographic location.

You indicate that V is a charitable organization which will be actively involved in the process of organizing, publicizing, and presenting the performances. In addition, the grants will encourage collaboration among the composers and V in the development and performance of the compositions.

The grants are publicized through the dissemination of information about the availability of the grants by your trustees to individuals involved in the world of music and composition.

Candidates for the grants will be required to submit an application to you that includes a brief description of the new work, including its instrumentation and duration, and a budget, including composer's fee.

The grants are awarded by a selection committee consisting of your trustees, who have experience working together in selecting recipients of other grants that you make to individuals and to 501(c)(3) organizations, including arts and music organizations.

The criteria considered in selecting grant recipients include:

- Whether a potential recipient has a post-graduate degree in the field of composition or another field related to music performance, or comparable practical experience in creating compositions for public performance.
- The artistic merit and practical feasibility of a potential recipient's proposal.
- How each potential recipient's proposal fits into the overall final work. The compositions funded by the grants will be part of a single work, the goal of which is to reflect on the W.
- Validation from V that they are willing to perform a piece composed by the potential recipient.

The selection committee determines whether the potential recipients meet the criteria by reviewing the applications submitted and (with respect to the last criterion) communicating with V. The selection committee also conducts independent research regarding the potential recipients, for example by assessing their prior compositions and their reputations in the field. The selection committee will consider the relative and absolute merits of the proposals presented.

If more than ten applications are received, the selection committee will select the grant recipients on the above criteria as well as how each proposal fits into the overall work. If there are not at least ten proposals submitted that meet the criteria, the number of grants will be reduced accordingly.

None of your donors, trustees, selection committee members or family members of your donors, trustees, and selection committee will be eligible to receive any of the grants offered.

None of your donors, trustees, selection committee members or family members is in a position to derive a private benefit, either directly or indirectly, if certain potential grantees are selected over others.

Each grant recipient is required to sign a commission agreement before the grant funds are disbursed. The commission agreement establishes the following terms and conditions of the grant:

- An obligation on the grant recipient to acknowledge the grant on the title page of the score of the musical work, and all printed copies thereof;
- Within 120 days of the premiere performance of the work, the participants must provide you with a clean copy of the original score for archival use, along with any revisions and a CD, DVD, or similar audio recording of the composition; and
- An agreement by the grant recipient to return the grant amount if the grant recipient does not complete the composition within a date to be specified in the grant agreement.

The grants will be paid by Z, of which you are the sole member. The grants will be paid in the following stages:

- b dollars upon execution of the commission agreement
- c dollars on or after February 1 following the execution of the agreement, as well as February 1 of the next year, and
- d dollars upon delivery of the two useable scores and one complete set of performance materials to V. The scores and performance materials are due no later than March 1 of the year following the second payment of c dollars.

Your trustees will periodically contact the grantees to check on the progress of the composing process. In addition, you will require annual and final reports. You will send an annual report request asking each grantee to confirm in writing that the grantee has used the grant funds only for the purposes of the grant.

If the grantee cannot confirm that the grant funds have been used only for the purposes of the grant, the annual report will ask for a written explanation of the use of the grant funds. The annual report request will also request a written description of the grantee's progress toward achieving the purpose of the grant.

Once a grantee has submitted the required scores and performance materials to V, you will send the grantee a final report request, which will ask the grantee to confirm in writing that the grantee has used the grant funds only for the purposes of the grant.

If the final report does not confirm that the grant funds have been used only for the purposes of the grant, the report will ask for a written explanation of the use of the grant funds. The scores and performance materials for the composition will constitute that part of the final report which evidences the grantee's accomplishments with respect to the grant.

If an annual report is not satisfactory, no further payments will be made. Furthermore, if a composer does not present the scores and performance materials to V, You will retain the remaining portion of the grant.

If at any time you receive information that all or any part of a grant has been diverted and/or is not being used in furtherance of the purposes of the grant, you will make an investigation. If it is discovered that a grant has in fact been used for improper purposes, you will take such reasonable and appropriate action to recover the funds.

You agree to maintain records that include the following:

- (i) Information used to evaluate the qualification of potential grantees;
- (ii) Identification of the grantees (including any relationship of any grantee to the private foundation);
- (iii) The amount and purpose of each grant; and
- (iv) All grantee reports and other follow-up data obtained in administering the private foundation's grant program.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your award programs will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your award program procedures herein constitutes a one-time approval of your system standards and procedures designed to result in awards which meet the requirements of section 4945(g)(3) of the Code. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent award programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

We have not considered whether grants made under your procedures are excludable from the gross income of recipients under section 117(a) of the Code.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all award distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 611(kj)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Lois G. Lerner
Director, Exempt Organizations

Enclosures:
Notice 437